

AMENDED IN ASSEMBLY JUNE 17, 2002

AMENDED IN SENATE APRIL 17, 2002

**SENATE BILL**

**No. 1244**

**Introduced by Senator Figueroa  
(Coauthor: Senator Alpert)**

(Coauthors: Assembly Members Alquist, Bates, and Salinas)

January 7, 2002

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~~An act to amend an initiative act entitled “An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners and declaring its powers and duties, prescribing penalties for violation thereof, and repealing all acts and parts of acts inconsistent herewith” approved by electors November 7, 1922, by amending Section 2 thereof, and to add Section 108.3 to the Business and Professions Code, relating to professional and vocational boards, and declaring the urgency thereof, to take effect immediately. An act to amend Sections 5094, 8022, 8028, and 8028.2 of, to add Sections 2570.25, 2570.26, 2570.27, 2570.28, 2570.29, 2570.30, and 2570.31 to, and to amend and repeal Section 805.2 of, the Business and Professions Code, relating to professions and vocations, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL’S DIGEST

SB 1244, as amended, Figueroa. ~~Professional and vocational boards~~ *Professions and vocations.*

*(1) Existing law provides for the professional review of specified healing arts licentiates through a peer review process. Existing law provides for a peer review study by the Medical Board of California*

*which is required to contract with the Institute for Medical Quality for the study. The institute is required to submit a written report of its findings and recommendations to the Medical Board of California and to the Legislature by November 1, 2002. Existing law provides for disciplinary actions by the boards and commissions within the Department of Consumer Affairs. Existing law authorizes the imposition of a requirement that a licentiate found in violation of the licensing law pay the costs of investigation and enforcement, and provides that payment be deposited into the appropriate fund.*

*This bill would extend the deadline for the written report to the Legislature to November 1, 2003. The bill would also authorize the board to expend, for purposes of the peer review study, the first \$300,000 deposited into the Contingent Medical Board Fund in the 2002-03 fiscal year that are derived from licentiates' paying the costs of investigation and enforcement of the licensing laws.*

*Because the bill would authorize the expenditure of money in the Contingent Medical Board Fund for a new purpose, the bill would make an appropriation.*

*(2) Existing law provides for the licensure of occupational therapists and the certification of occupational therapy assistants by the California Board of Occupational Therapy. The board is authorized, after a hearing meeting certain requirements, to deny a license or certificate suspend or revoke the license or certificate of, or place on probation, reprimand, censure, or otherwise discipline, a licensee or certified person.*

*This bill would delete the provisions authorizing censure or other discipline of a licensee or certified person by the board. The bill would instead specify disciplinary methods and application, define unprofessional conduct, and authorize a holder of a license to petition the board for reinstatement or for modification of a penalty.*

*(3) Existing law establishes the California Board of Accountancy, in the Department of Consumer Affairs, for the purpose of licensing and regulating public accountants.*

*Existing law sets forth certain education requirements, and requires that the education meet certain criteria, including that it be from a university, college or other institution of learning accredited by a regional institutional agency meeting specified requirements.*

*This bill would require that the university, college, or institution be degree-granting, and would allow it to be accredited by either a regional or national accredited agency meeting specified requirements.*



(4) Existing law provides for the certification and regulation of shorthand reporters and for the regulation of shorthand reporting corporations by the Court Reporters Board. Under existing law, shorthand reporting corporations are professional corporations, governed generally under the Moscone-Knox Professional Corporations Act, that render professional services through certified shorthand reporters. Existing law authorizes the board between January 1, 2001, and July 1, 2002, to examine, evaluate, and investigate complaints against shorthand reporting entities, as defined, for the purpose of determining the necessity to register these entities and requires the board to report its findings in this regard to the Legislature on or before July 1, 2002.

This bill would extend the board's authorization to examine, investigate, and evaluate complaints to January 1, 2004. The bill would specify that partnerships, unincorporated associations, and limited liability companies are entities for the purpose of qualifying as shorthand reporting entities. The bill would extend the board's reporting deadline to January 1, 2004.

Existing law requires an applicant for a certificate as a shorthand reporter to file an application at least 45 days before the date set for the licensing examination.

This bill would delete the 45 day deadline and instead authorize the board to set the deadline by regulation.

(5) This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law provides for various boards contained within the Department of Consumer Affairs. The initiative act known as the Chiropractic Act provides for the State Board of Chiropractic Examiners and requires that the Governor appoint members of that board.~~

~~This bill would require the Governor to fill a board vacancy on a board within the Department of Consumer Affairs or the State Board of Chiropractic Examiners within 30 days, and would provide that if the Governor fails to make an appointment the Senate Committee on Rules may make the appointment.~~

~~This bill would require the provisions relating to the State Board of Chiropractic Examiners, which was created by initiative statute, to be submitted to the voters for approval consistent with that initiative statute.~~



~~The bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: ~~no~~—yes. Fiscal committee: ~~no~~—yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     ~~SECTION 1.—Section 108.3 is added to the Business and~~  
2     *SECTION 1. Section 805.2 of the Business and Professions*  
3     *Code, as added by Section 2 of Chapter 615 of the Statutes of 2001,*  
4     *is amended to read:*  
5     805.2. (a) It is the intent of the Legislature to provide for a  
6     comprehensive study of the peer review process as it is conducted  
7     by peer review bodies defined in paragraph (1) of subdivision (a)  
8     of Section 805, in order to evaluate the continuing validity of  
9     Section 805 and Sections 809 to 809.8, inclusive, and their  
10    relevance to the conduct of peer review in California. The Medical  
11    Board of California shall contract with the Institute for Medical  
12    Quality to conduct this study, which shall include, but not be  
13    limited to, the following components:  
14    (1) A comprehensive description of the various steps of and  
15    decisionmakers in the peer review process as it is conducted by  
16    peer review bodies throughout the state, including the role of other  
17    related committees of acute care health facilities and clinics  
18    involved in the peer review process.  
19    (2) A survey of peer review cases to determine the incidence of  
20    peer review by peer review bodies, and whether they are  
21    complying with the reporting requirement in Section 805.  
22    (3) A description and evaluation of the roles and performance  
23    of various state agencies, including the State Department of Health  
24    Services and occupational licensing agencies that regulate healing  
25    arts professionals, in receiving, reviewing, investigating, and  
26    disclosing peer review actions, and in sanctioning peer review  
27    bodies for failure to comply with Section 805.  
28    (4) An assessment of the cost of peer review to licentiates and  
29    the facilities which employ them.  
30    (5) An assessment of the time consumed by the average peer  
31    review proceeding, including the hearing provided pursuant to  
32    Section 809.2, and a description of any difficulties encountered by

1 either licentiates or facilities in assembling peer review bodies or  
2 panels to participate in peer review decisionmaking.

3 (6) An assessment of the need to amend Section 805 and  
4 Sections 809 to 809.8, inclusive, to ensure that they continue to be  
5 relevant to the actual conduct of peer review as described in  
6 paragraph (1), and to evaluate whether the current reporting  
7 requirement is yielding timely and accurate information to aid  
8 licensing boards in their responsibility to regulate and discipline  
9 healing arts practitioners when necessary, and to assure that peer  
10 review bodies function in the best interest of patient care.

11 (7) Recommendations of additional mechanisms to stimulate  
12 the appropriate reporting of peer review actions under Section  
13 805.

14 (8) Recommendations regarding the Section 809 hearing  
15 process to improve its overall effectiveness and efficiency.

16 (b) The Institute of Medical Quality shall exercise no authority  
17 over the peer review processes of peer review bodies. However,  
18 peer review bodies, health care facilities, health care clinics, and  
19 health care service plans shall cooperate with the institute and  
20 provide data, information, and case files as requested in the  
21 timeframes specified by the institute.

22 (c) The institute shall work in cooperation with and under the  
23 general oversight of the Medical Director of the Medical Board of  
24 California and shall submit a written report with its findings and  
25 recommendations to the board and the Legislature no later than  
26 November 1, ~~2002~~ 2003.

27 (d) *For the purpose of carrying out this section, the board is*  
28 *authorized to expend the first three hundred thousand dollars*  
29 *(\$300,000) that is deposited in the Contingent Fund of the Medical*  
30 *Board of California in the 2002–03 fiscal year pursuant to Section*  
31 *125.3.*

32 *SEC. 2. Section 805.2 of the Business and Professions Code,*  
33 *as added by Section 4 of Chapter 614, is repealed.*

34 ~~805.2.—(a) It is the intent of the Legislature to provide for a~~  
35 ~~comprehensive study of the peer review process as it is conducted~~  
36 ~~by peer review bodies defined in paragraph (1) of subdivision (a)~~  
37 ~~of Section 805, in order to evaluate the continuing validity of~~  
38 ~~Section 805 and Sections 809 to 809.8, inclusive, and their~~  
39 ~~relevance to the conduct of peer review in California. The Medical~~  
40 ~~Board of California shall contract with the Institute for Medical~~

~~Quality to conduct this study, which shall include, but not be limited to, the following components:~~

~~(1) A comprehensive description of the various steps of and decisionmakers in the peer review process as it is conducted by peer review bodies throughout the state, including the role of other related committees of acute care health facilities and clinics involved in the peer review process.~~

~~(2) A survey of peer review cases to determine the incidence of peer review by peer review bodies, and whether they are complying with the reporting requirement in Section 805.~~

~~(3) A description and evaluation of the roles and performance of various state agencies, including the State Department of Health Services and occupational licensing agencies that regulate healing arts professionals, in receiving, reviewing, investigating, and disclosing peer review actions, and in sanctioning peer review bodies for failure to comply with Section 805.~~

~~(4) An assessment of the cost of peer review to licentiates and the facilities which employ them.~~

~~(5) An assessment of the time consumed by the average peer review proceeding, including the hearing provided pursuant to Section 809.2, and a description of any difficulties encountered by either licentiates or facilities in assembling peer review bodies or panels to participate in peer review decisionmaking.~~

~~(6) An assessment of the need to amend Section 805 and Sections 809 to 809.8, inclusive, to ensure that they continue to be relevant to the actual conduct of peer review as described in paragraph (1), and to evaluate whether the current reporting requirement is yielding timely and accurate information to aid licensing boards in their responsibility to regulate and discipline healing arts practitioners when necessary, and to assure that peer review bodies function in the best interest of patient care.~~

~~(7) Recommendations of additional mechanisms to stimulate the appropriate reporting of peer review actions under Section 805.~~

~~(8) Recommendations regarding the Section 809 hearing process to improve its overall effectiveness and efficiency.~~

~~(b) The Institute of Medical Quality shall exercise no authority over the peer review processes of peer review bodies. However, peer review bodies, health care facilities, health care clinics, and health care service plans shall cooperate with the institute and~~

~~provide data, information, and case files as requested in the timeframe specified by the institute.~~

~~(e) The institute shall work in cooperation with and under the general oversight of the Medical Director of the Medical Board of California and shall submit a written report with its findings and recommendations to the board and the Legislature no later than November 1, 2002.~~

*SEC. 3. Section 2570.25 is added to the Business and Professions Code, to read:*

*2570.25. (a) The board may, after a hearing, deny, suspend, revoke, or place on probation, a license, certificate, inactive license, inactive certificate, or limited permit.*

*(b) As used in this chapter, "license" includes a license, certificate, limited permit, or any other authorization to engage in practice regulated by this chapter.*

*(c) The proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.*

*SEC. 4. Section 2570.26 is added to the Business and Professions Code, to read:*

*2570.26. (a) The board may discipline a licensee by any or a combination of the following methods:*

*(1) Placing the license on probation with terms and conditions.*

*(2) Suspending the license and the right to practice occupational therapy for a period not to exceed one year.*

*(3) Revoking the license.*

*(4) Suspending or staying the disciplinary order, or portions of it, with or without conditions.*

*(5) Taking other action as the board, in its discretion, deems proper.*

*(b) The board may issue an initial license on probation, with specific terms and conditions, to any applicant who has violated any provision of this chapter or the regulations adopted pursuant to it, but who has met all other requirements for licensure.*

*SEC. 5. Section 2570.27 is added to the Business and Professions Code, to read:*

*2570.27. The board may deny or discipline a licensee for any of the following:*



- 1     (a) *Unprofessional conduct, including, but not limited to, the*  
2 *following:*
- 3     (1) *Incompetence or gross negligence in carrying out usual*  
4 *occupational therapy functions.*
- 5     (2) *Repeated similar negligent acts in carrying out usual*  
6 *occupational therapy functions.*
- 7     (3) *A conviction of practicing medicine without a license in*  
8 *violation of Chapter 5 (commencing with Section 2000), in which*  
9 *event a certified copy of the record of conviction shall be*  
10 *conclusive evidence thereof.*
- 11    (4) *The use of advertising relating to occupational therapy*  
12 *which violates Section 17500.*
- 13    (5) *Denial of licensure, revocation, suspension, restriction, or*  
14 *any other disciplinary action against a licensee by another state*  
15 *or territory of the United States, by any other government agency,*  
16 *or by another California health care professional licensing board.*  
17 *A certified copy of the decision, order or judgment shall be*  
18 *conclusive evidence thereof.*
- 19    (b) *Procuring a license by fraud, misrepresentation, or*  
20 *mistake.*
- 21    (c) *Violating or attempting to violate, directly or indirectly, or*  
22 *assisting in or abetting the violation of, or conspiring to violate,*  
23 *any provision or term of this chapter or any regulation adopted*  
24 *pursuant to the chapter.*
- 25    (d) *Making or giving any false statement or information in*  
26 *connection with the application for issuance or renewal of a*  
27 *license.*
- 28    (e) *Conviction of a crime or of any offense substantially related*  
29 *to the qualifications, functions, or duties of a licensee, in which*  
30 *event the record of the conviction shall be conclusive evidence*  
31 *thereof.*
- 32    (f) *Impersonating an applicant or acting as proxy for an*  
33 *applicant in any examination required under this chapter for the*  
34 *issuance of a license.*
- 35    (g) *Impersonating a licensed practitioner, or permitting or*  
36 *allowing another unlicensed person to use a license.*
- 37    (h) *Committing any fraudulent, dishonest, or corrupt act that*  
38 *is substantially related to the qualifications, functions, or duties of*  
39 *a licensee.*



1 (i) Committing any act punishable as a sexually related crime,  
2 if that act is substantially related to the qualifications, functions,  
3 or duties of a licensee, in which event a certified copy of the record  
4 of conviction shall be conclusive evidence thereof.

5 (j) Using excessive force upon or mistreating or abusing any  
6 patient. For the purposes of this subdivision, “excessive force”  
7 means force clearly in excess of that which would normally be  
8 applied in similar clinical circumstances.

9 (k) Falsifying or making grossly incorrect, grossly inconsistent,  
10 or unintelligible entries in a patient or hospital record or any other  
11 record.

12 (l) Changing the prescription of a physician and surgeon or  
13 falsifying verbal or written orders for treatment or a diagnostic  
14 regime received, whether or not that action resulted in actual  
15 patient harm.

16 (m) Failing to maintain confidentiality of patient medical  
17 information, except as disclosure is otherwise permitted or  
18 required by law.

19 (n) Delegating to an unlicensed employee or person a service  
20 that requires the knowledge, skills, abilities, or judgement of a  
21 licensee.

22 (o) Committing any act that would be grounds for denial of a  
23 license under Section 480.

24 (p) Except for good cause, the knowing failure to protect  
25 patients by failing to follow infection control guidelines of the  
26 board, thereby risking transmission of blood-borne infectious  
27 diseases from licensee to patient, from patient to patient, or from  
28 patient to licensee.

29 (1) In administering this subdivision, the board shall consider  
30 referencing the standards, regulations, and guidelines of the State  
31 Department of Health Services developed pursuant to Section  
32 1250.11 of the Health and Safety Code and the standards,  
33 guidelines, and regulations pursuant to the California  
34 Occupational Safety and Health Act of 1973 (Part 1 (commencing  
35 with Section 63001) of Division 5 of the Labor Code) for  
36 preventing the transmission of HIV, hepatitis B, and other  
37 blood-borne pathogens in health care settings. As necessary to  
38 encourage appropriate consistency in the implementation of this  
39 subdivision, the board shall consult with the Medical Board of  
40 California, the Board of Podiatric Medicine, the Dental Board of

1 California, the Board of Registered Nursing, and the Board of  
2 Vocational Nursing and Psychiatric Technicians.

3 (2) The board shall seek to ensure that licensees are informed  
4 of their responsibility to minimize the risk of transmission of  
5 blood-borne infectious diseases from health care provider to  
6 patient, from patient to patient, and from patient to health care  
7 provider; and are informed of the most recent scientifically  
8 recognized safeguards for minimizing the risks of transmission.

9 SEC. 6. Section 2570.28 is added to the Business and  
10 Professions Code, to read:

11 2570.28. In addition to other acts constituting unprofessional  
12 conduct within the meaning of this chapter, it is unprofessional  
13 conduct for a person licensed under this chapter to do any of the  
14 following:

15 (a) Obtain or possess in violation of law, or prescribe, or, except  
16 as directed by a licensed physician and surgeon, dentist, or  
17 podiatrist, to administer to himself or herself, or furnish or  
18 administer to another, any controlled substance as defined in  
19 Division 10 (commencing with Section 11000) of the Health and  
20 Safety Code or any dangerous drug or dangerous device as defined  
21 in Section 4022.

22 (b) Use to an extent or in a manner dangerous or injurious to  
23 himself or herself, to any other person, or to the public, or that  
24 impairs his or her ability to conduct with safety to the public the  
25 practice authorized by his or her license, of any of the following:

26 (1) A controlled substance as defined in Division 10  
27 (commencing with Section 11000) of the Health and Safety Code.

28 (2) A dangerous drug or dangerous device as defined in Section  
29 4022.

30 (3) Alcoholic beverages.

31 (c) Be convicted of a criminal offense involving the  
32 prescription, consumption, or self-administration of any of the  
33 substances described in subdivisions (a) and (b) of this section, or  
34 the possession of, or falsification of a record pertaining to, the  
35 substances described in subdivision (a) of this section, in which  
36 event the record of the conviction is conclusive evidence thereof.

37 (d) Be committed or confined by a court of competent  
38 jurisdiction for intemperate use of any of the substances described  
39 in subdivisions (a) and (b) of this section, in which event the court

1 *order of commitment or confinement is prima facie evidence of the*  
2 *commitment or confinement.*

3 *(e) Falsify, or make grossly incorrect, grossly inconsistent, or*  
4 *unintelligible entries in any hospital or patient record, or any other*  
5 *record, pertaining to the substances described in subdivision (a)*  
6 *of this section.*

7 *SEC. 7. Section 2570.29 is added to the Business and*  
8 *Professions Code, to read:*

9 *2570.29. The board shall retain jurisdiction to proceed with*  
10 *any investigation, action or disciplinary proceeding against a*  
11 *license, or to render a decision suspending or revoking a license,*  
12 *regardless of the expiration, lapse, or suspension of the license by*  
13 *operation of law, by order or decision of the board or a court of law,*  
14 *or by the voluntary surrender of a license by the licensee.*

15 *SEC. 8. Section 2570.30 is added to the Business and*  
16 *Professions Code, to read:*

17 *2570.30. If a license is suspended, the holder may not practice*  
18 *occupational therapy during the term of suspension. Upon the*  
19 *expiration of the term of suspension, the license shall be reinstated*  
20 *and the holder entitled to resume practice under any remaining*  
21 *terms of the discipline, unless it is established to the satisfaction*  
22 *of the board that the holder of the license practiced in this state*  
23 *during the term of suspension. In this event, the board may, after*  
24 *a hearing on this issue alone, revoke the license.*

25 *SEC. 9. Section 2570.31 is added to the Business and*  
26 *Professions Code, to read:*

27 *2570.31. (a) A holder of a license that has been revoked,*  
28 *suspended, or placed on probation, may petition the board for*  
29 *reinstatement or modification of a penalty, including reduction or*  
30 *termination of probation, after a period not less than the*  
31 *applicable following minimum period has elapsed from either the*  
32 *effective date of the decision ordering that disciplinary action, or,*  
33 *if the order of the board or any portion of it was stayed, from the*  
34 *date the disciplinary action was actually implemented in its*  
35 *entirety. The minimum periods that shall elapse prior to a petition*  
36 *are as follows:*

37 *(1) For a license that was revoked for any reason other than*  
38 *mental or physical illness, at least three years.*

39 *(2) For early termination of probation scheduled for three or*  
40 *more years, at least two years.*

1 (3) *For modification of a penalty, reinstatement of a license*  
2 *revoked for mental or physical illness, or termination of probation*  
3 *scheduled for less than three years, at least one year.*

4 (4) *The board may, in its discretion, specify in its disciplinary*  
5 *order a lesser period of time, provided that the period shall not be*  
6 *less than one year.*

7 (b) *The petition submitted shall contain any information*  
8 *required by the board, which may include a current set of*  
9 *fingerprints accompanied by the fingerprinting fee.*

10 (c) *The board shall give notice to the Attorney General of the*  
11 *filing of the petition. The petitioner and the Attorney General shall*  
12 *be given timely notice by letter of the time and place of the hearing*  
13 *on the petition, and an opportunity to present both oral and*  
14 *documentary evidence and argument to the board. The petitioner*  
15 *shall at all times have the burden of proof to establish by clear and*  
16 *convincing evidence that he or she is entitled to the relief sought*  
17 *in the petition.*

18 (d) *The board itself shall hear the petition and the*  
19 *administrative law judge shall prepare a written decision setting*  
20 *forth the reasons supporting the decision.*

21 (e) *The board may grant or deny the petition, or may impose*  
22 *any terms and conditions that it reasonably deems appropriate as*  
23 *a condition of reinstatement or reduction of penalty.*

24 (f) *The board may refuse to consider a petition while the*  
25 *petitioner is under sentence for any criminal offense, including any*  
26 *period during which the petitioner is on court-imposed probation*  
27 *or parole or subject to an order of registration pursuant to Section*  
28 *290 of the Penal Code.*

29 (g) *No petition shall be considered while there is an accusation*  
30 *or petition to revoke probation pending against the petitioner.*

31 SEC. 10. *Section 5094 of the Business and Professions Code,*  
32 *as added by Section 22 of Chapter 718 of the Statutes of 2001, is*  
33 *amended to read:*

34 5094. (a) *In order for education to be qualifying, it shall meet*  
35 *the standards described in subdivision (b) or (c) of this section.*

36 (b) *At a minimum, education must be from a degree-granting*  
37 *university, college, or other institution of learning accredited by a*  
38 *regional-institutional-or national accrediting agency included in*  
39 *a list of these agencies published by the United States Secretary of*

1 Education under the requirements of the Higher Education Act of  
2 1965 as amended (20 U.S.C. Sec. 1001 and following).

3 (c) Education from a college, university, or other institution of  
4 learning located outside the United States may be qualifying  
5 provided it is deemed by the board to be equivalent to education  
6 obtained under subdivision (b). The board may require an  
7 applicant to submit documentation of his or her education to a  
8 credentials evaluation service approved by the board for  
9 evaluation and to cause the results of this evaluation to be reported  
10 to the board in order to assess educational equivalency.

11 (d) The board shall adopt regulations specifying the criteria and  
12 procedures for approval of credential evaluation services. These  
13 regulations shall, at a minimum, require that the credential  
14 evaluation service (1) furnish evaluations directly to the board, (2)  
15 furnish evaluations written in English, (3) be a member of the  
16 American Association of Collegiate Registrars and Admission  
17 Officers, the National Association of Foreign Student Affairs, or  
18 the National Association of Credential Evaluation Services, (4) be  
19 used by accredited colleges and universities, (5) be reevaluated by  
20 the board every five years, (6) maintain a complete set of reference  
21 materials as specified by the board, (7) base evaluations only upon  
22 authentic, original transcripts and degrees and have a written  
23 procedure for identifying fraudulent transcripts, (8) include in the  
24 evaluation report, for each degree held by the applicant, the  
25 equivalent degree offered in the United States, the date the degree  
26 was granted, the institution granting the degree, an English  
27 translation of the course titles, and the semester unit equivalence  
28 for each of the courses, (9) have an appeal procedure for  
29 applicants, and (10) furnish the board with information concerning  
30 the credential evaluation service that includes biographical  
31 information on evaluators and translators, three letters of  
32 references from public or private agencies, statistical information  
33 on the number of applications processed annually for the past five  
34 years, and any additional information the board may require in  
35 order to ascertain that the credential evaluation service meets the  
36 standards set forth in this subdivision and in any regulations  
37 adopted by the board.

38 *SEC. 10.5. Section 5094 of the Business and Professions*  
39 *Code, as added by Section 19 of Chapter 704 of the Statutes of*  
40 *2001, is amended to read:*

1 5094. (a) In order for education to be qualifying, education  
2 shall meet the standards described in subdivision (b) or (c) of this  
3 section.

4 (b) At a minimum, education must be from a *degree-granting*  
5 university, college, or other institution of learning accredited by a  
6 regional ~~institutional~~ or *national* accrediting agency included in  
7 a list of these agencies published by the United States Secretary of  
8 Education under the requirements of the Higher Education Act of  
9 1965 as amended (20 U.S.C. Sec. 1001 and following).

10 (c) Education from a college, university, or other institution of  
11 learning located outside the United States may be qualifying  
12 provided it is deemed by the board to be equivalent to education  
13 obtained under subdivision (b). The board may require an  
14 applicant to submit documentation of his or her education to a  
15 credentials evaluation service approved by the board for  
16 evaluation and to cause the results of this evaluation to be reported  
17 to the board in order to assess educational equivalency.

18 (d) The board shall adopt regulations specifying the criteria and  
19 procedures for approval of credential evaluation services. These  
20 regulations shall, at a minimum, require that the credential  
21 evaluation service (1) furnish evaluations directly to the board, (2)  
22 furnish evaluations written in English, (3) be a member of the  
23 American Association of Collegiate Registrars and Admission  
24 Officers, the National Association of Foreign Student Affairs, or  
25 the National Association of Credential Evaluation Services, (4) be  
26 used by accredited colleges and universities, (5) be reevaluated by  
27 the board every five years, (6) maintain a complete set of reference  
28 materials as specified by the board, (7) base evaluations only upon  
29 authentic, original transcripts and degrees and have a written  
30 procedure for identifying fraudulent transcripts, (8) include in the  
31 evaluation report, for each degree held by the applicant, the  
32 equivalent degree offered in the United States, the date the degree  
33 was granted, the institution granting the degree, an English  
34 translation of the course titles, and the semester unit equivalence  
35 for each of the courses, (9) have an appeal procedure for  
36 applicants, and (10) furnish the board with information concerning  
37 the credential evaluation service that includes biographical  
38 information on evaluators and translators, three letters of  
39 references from public or private agencies, statistical information  
40 on the number of applications processed annually for the past five



years, and any additional information the board may require in order to ascertain that the credential evaluation service meets the standards set forth in this subdivision and in any regulations adopted by the board.

*SEC. 11. Section 8022 of the Business and Professions Code is amended to read:*

8022. (a) Each applicant for a certificate under this chapter shall file an application with the executive officer, on a form as prescribed by the board, ~~at least 45 days before the date fixed for examination, and the~~ *The last date to file an application shall be a set number of days as established by the board's regulations. The* application shall be accompanied by the required fee. For purposes of determining the date upon which an application is deemed filed with the executive officer, the date of postmark as affixed by the United States Postal Service, or the date certified by a bona fide private courier service on the envelope containing the application shall control.

(b) Nothing in this section shall be construed to limit the board's authority to seek from any applicant any other information pertinent to the background, education, and experience of the applicant that may be deemed necessary in order to evaluate the applicant's qualifications and fitness for licensure.

*SEC. 12. Section 8028 of the Business and Professions Code is amended to read:*

8028. (a) For the purposes of determining the necessity for the board to register shorthand reporting entities and subject those entities to its discipline and oversight, the board shall, ~~until July 1, 2002 January 1, 2004~~, be authorized to examine, evaluate, and investigate complaints against shorthand reporting entities. Nothing in this subdivision shall be construed to grant the board any authority to discipline or sanction shorthand reporting entities that is not otherwise permitted by law.

(b) For purposes of this article, a "shorthand reporting entity" is an entity or person, *including partnerships, unincorporated associations, and limited liability companies*, that holds itself out as a deposition agency, offers a booking or billing service for certified shorthand reporters, or in any manner whatsoever acts as an intermediary for a person, entity, or organization that employs, hires, or engages the services of any person licensed as a certified



1 shorthand reporter. This article does not apply to any department  
2 or agency of the state that employs hearing reporters.

3 (c) The board may examine, evaluate, and investigate  
4 complaints pursuant to subdivision (a) beginning January 1, 2001,  
5 and continuing until no later than ~~July 1, 2002~~ *January 1, 2004*.

6 *SEC. 13. Section 8028.2 of the Business and Professions Code*  
7 *is amended to read:*

8 8028.2. Based on the information gathered pursuant to  
9 Section 8028, the board shall, on or before ~~July 1, 2002~~ *January*  
10 *1, 2004*, submit a report to the Legislature, including  
11 recommendations on the necessity for the board to register  
12 shorthand reporting entities, *as defined in subdivision (b) of*  
13 *Section 8028*. If the report recommends the registration of  
14 shorthand reporting entities, the report shall include:

15 (a) A description of the problem that establishing the new  
16 registration requirement would address, including the specific  
17 evidence of the necessity for the state to address the problem.

18 (b) The reasons this proposed registration requirement was  
19 selected to address this problem, including the full range of  
20 alternatives considered and the reason each of these other  
21 alternatives was not selected.

22 (c) The specific public benefit or harm that would result from  
23 the establishment of the proposed registration requirements, the  
24 specific manner in which the registration requirements would  
25 achieve this public benefit, and the specific standards of  
26 performance that shall be used in reviewing the subsequent  
27 operation of the shorthand reporting entities.

28 (d) The specific source or sources of revenue and funding the  
29 board will utilize to regulate the newly registered entities in order  
30 to achieve its mandate.

31 *SEC. 14. This act is an urgency statute necessary for the*  
32 *immediate preservation of the public peace, health, or safety*  
33 *within the meaning of Article IV of the Constitution and shall go*  
34 *into immediate effect. The facts constituting the necessity are:*

35 *To create necessary funding for the peer review process study,*  
36 *to extend reporting deadlines regarding the peer review process*  
37 *and regarding complaints to the Court Reporters Board prior to*  
38 *the expiration of those deadlines, to expand and define the*  
39 *California Board of Occupational Therapy's ability to enforce the*  
40 *provisions of its licensing law and alter its application*

*requirements, and to change education qualification requirements as soon as possible, it is necessary that this act take effect immediately.*

*Professions Code, to read:*

~~108.3. Notwithstanding any other provision of law, the Governor shall fill any vacancy on any board within the department within 30 days of the date on which the vacancy occurs. If the Governor fails to make an appointment within the 30-day period, the Senate Committee on Rules may make an appointment to fill the vacancy.~~

~~SEC. 2. Section 2 of the act cited in the title is amended to read:~~

~~Sec. 2. (a) The Governor shall appoint the members of the board. Each appointment shall be for the term of four years, except that an appointment to fill a vacancy shall be for the unexpired term only. Each member shall serve until a successor has been appointed and qualified or until one year has elapsed since the expiration of his or her term, whichever first occurs. No person shall serve more than two consecutive terms on the board nor be eligible for appointment thereafter until the expiration of four years from the expiration of the second consecutive term, effective January 2, 1974. The Governor may remove a member from the board after receiving sufficient proof of the inability or misconduct of the member.~~

~~(b) The Governor shall fill any vacancy on the board within 30 days of the date on which the vacancy occurs. If the Governor fails to make an appointment within the 30-day period, the Senate Committee on Rules may make an appointment to fill the vacancy.~~

~~SEC. 3. Section 2 of this act shall not become operative until approved by the voters. The Secretary of State is hereby directed to place those provisions on the ballot of the next statewide election for approval by the voters in accordance with applicable provisions of law.~~

~~SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:~~

~~In order to avoid vacancies on the State Board of Chiropractic Examiners and to keep a quorum present so that the board may~~

- 1 ~~conduct its business, it is necessary that this act take effect~~
- 2 ~~immediately as an urgency statute.~~

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